

**Introduced by Committee on Banking, Finance and Insurance  
(Senators Speier (Chair), Cox, Denham, Florez, Hollingsworth,  
Lowenthal, Machado, Maldonado, Murray, Romero, and Scott)**

March 14, 2006

---

An act to amend Section 791.13 and to repeal Sections 742.435 and 1751.8 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1847, as introduced, Committee on Banking, Finance and Insurance. Insurance: privacy.

Under existing law an insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure comes within specified exceptions generally designed to facilitate the legitimate transaction of insurance.

This bill would add an exception to the general rule of nondisclosure when the disclosure is to an insured when the information disclosed is from an accident report, supplemental report, investigative report or the actual report from a government agency or is an exact copy of an accident report or other report which the insured is entitled to obtain under other specified provisions of law.

Under current law the Insurance Commissioner investigates certain matters and makes reports to the Legislature by 2001 and 2002.

This bill would repeal those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 791.13 of the Insurance Code is amended to read:

791.13. An insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(a) With the written authorization of the individual, and meets either of the conditions specified in paragraph (1) or (2):

(1) If such authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirement of Section 791.06.

(2) If such authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:

(A) Dated;

(B) Signed by the individual.

(C) Obtained one year or less prior to the date a disclosure is sought pursuant to this section.

(b) To a person other than an insurance institution, agent, or insurance-support organization, provided such disclosure is reasonably necessary:

(1) To enable such person to perform a business, professional or insurance function for the disclosing insurance institution, agent, or insurance-support organization or insured and such person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(A) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or

(B) Is reasonably necessary for such person to perform its function for the disclosing insurance institution, agent, or insurance-support organization.

(2) To enable such person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(A) Determining an individual's eligibility for an insurance benefit or payment; or

1 (B) Detecting or preventing criminal activity, fraud, material  
2 misrepresentation or material nondisclosure in connection with  
3 an insurance transaction.

4 (c) To an insurance institution, agent, insurance-support  
5 organization or self-insurer, provided the information disclosed is  
6 limited to that which is reasonably necessary under either  
7 paragraph (1) or (2):

8 (1) To detect or prevent criminal activity, fraud, material  
9 misrepresentation or material nondisclosure in connection with  
10 insurance transactions; or

11 (2) For either the disclosing or receiving insurance institution,  
12 agent or insurance-support organization to perform its function in  
13 connection with an insurance transaction involving the  
14 individual.

15 (d) To a medical-care institution or medical professional for  
16 the purpose of any of the following:

17 (1) Verifying insurance coverage or benefits.

18 (2) Informing an individual of a medical problem of which the  
19 individual may not be aware.

20 (3) Conducting operations or services audit, provided only  
21 such information is disclosed as is reasonably necessary to  
22 accomplish the foregoing purposes.

23 (e) To an insurance regulatory authority; or

24 (f) To a law enforcement or other governmental authority  
25 pursuant to law.

26 (g) Otherwise permitted or required by law.

27 (h) In response to a facially valid administrative or judicial  
28 order, including a search warrant or subpoena.

29 (i) Made for the purpose of conducting actuarial or research  
30 studies, provided:

31 (1) No individual may be identified in any actuarial or  
32 research report.

33 (2) Materials allowing the individual to be identified are  
34 returned or destroyed as soon as they are no longer needed.

35 (3) The actuarial or research organization agrees not to  
36 disclose the information unless the disclosure would otherwise be  
37 permitted by this section if made by an insurance institution,  
38 agent or insurance-support organization.

39 (j) To a party or a representative of a party to a proposed or  
40 consummated sale, transfer, merger or consolidation of all or part

1 of the business of the insurance institution, agent or  
2 insurance-support organization, provided:

3 (1) Prior to the consummation of the sale, transfer, merger, or  
4 consolidation only such information is disclosed as is reasonably  
5 necessary to enable the recipient to make business decisions  
6 about the purchase, transfer, merger, or consolidation.

7 (2) The recipient agrees not to disclose the information unless  
8 the disclosure would otherwise be permitted by this section if  
9 made by an insurance institution, agent or insurance-support  
10 organization.

11 (k) To a person whose only use of such information will be in  
12 connection with the marketing of a product or service, provided:

13 (1) No medical-record information, privileged information, or  
14 personal information relating to an individual's character,  
15 personal habits, mode of living, or general reputation is  
16 disclosed, and no classification derived from such information is  
17 disclosed; or

18 (2) The individual has been given an opportunity to indicate  
19 that he or she does not want personal information disclosed for  
20 marketing purposes and has given no indication that he or she  
21 does not want the information disclosed; and

22 (3) The person receiving such information agrees not to use it  
23 except in connection with the marketing of a product or service.

24 (l) To an affiliate whose only use of the information will be in  
25 connection with an audit of the insurance institution or agent or  
26 the marketing of an insurance product or service, provided the  
27 affiliate agrees not to disclose the information for any other  
28 purpose or to unaffiliated persons.

29 (m) By a consumer reporting agency, provided the disclosure  
30 is to a person other than an insurance institution or agent.

31 (n) To a group policyholder for the purpose of reporting  
32 claims experience or conducting an audit of the insurance  
33 institution's or agent's operations or services, provided the  
34 information disclosed is reasonably necessary for the group  
35 policyholder to conduct the review or audit.

36 (o) To a professional peer review organization for the purpose  
37 of reviewing the service or conduct of a medical-care institution  
38 or medical professional.

1 (p) To a governmental authority for the purpose of  
2 determining the individual's eligibility for health benefits for  
3 which the governmental authority may be liable.

4 (q) To a certificate holder or policyholder for the purpose of  
5 providing information regarding the status of an insurance  
6 transaction.

7 (r) To a lienholder, mortgagee, assignee, lessor, or other  
8 person shown on the records of an insurance institution or agent  
9 as having a legal or beneficial interest in a policy of insurance.  
10 The information disclosed shall be limited to that which is  
11 reasonably necessary to permit the person to protect his or her  
12 interest in the policy and shall be consistent with Article 5.5  
13 (commencing with Section 770).

14 (s) *To an insured when the information disclosed is from an*  
15 *accident report, supplemental report, investigative report or the*  
16 *actual report from a government agency or is an exact copy of an*  
17 *accident report or other report which the insured is entitled to*  
18 *obtain under Section 20012 of the Vehicle Code or subdivision*  
19 *(f) of Section 6254 of the Government Code.*

20 SEC. 2. Section 742.435 of the Insurance Code is repealed.

21 ~~742.435. The Department of Insurance, in consultation with~~  
22 ~~the Department of Managed Health Care, shall conduct an~~  
23 ~~evaluation of multiple employer welfare arrangements and report~~  
24 ~~to the Legislature and the Governor by January 1, 2002. The~~  
25 ~~evaluation shall include, but not be limited to, the effectiveness~~  
26 ~~of multiple employer welfare arrangements in providing~~  
27 ~~participants with options for affordable health care coverage, and~~  
28 ~~the effect of multiple employer welfare arrangements on persons~~  
29 ~~or entities purchasing health care coverage who are not multiple~~  
30 ~~employer welfare arrangement participants.~~

31 SEC. 3. Section 1751.8 of the Insurance Code is repealed.

32 ~~1751.8. The Department of Insurance shall investigate and~~  
33 ~~implement a system, and report to the Legislature by January 1,~~  
34 ~~2001, regarding that system, under which license fees can be paid~~  
35 ~~electronically.~~